

LUKAS, NACE, GUTIERREZ & SACHS, LLP

8300 GREENSBORO DRIVE, SUITE 1200
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
DAVID A. LAFURIA
PAMELA L. GIST
TODD SLAMOWITZ*
BROOKS E. HARLOW*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS NEVITT*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ
—
OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. MCAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS BROWN*
JEFFREY A. MITCHELL*
ROBERT S. KOPPEL*
MARC A. PAUL*
—

*NOT ADMITTED IN VA

FILED ELECTRONICALLY

June 21, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: *Ex Parte* Notification
 CC Docket Nos. 96-45; 01-92; GN Docket No. 09-51;
 WC Docket Nos. 03-109; 05-337; 07-135; 10-90; WT Docket No. 10-208**

Dear Ms. Dortch:

On June 19, 2012, Wade McGill, Chief Administrative Officer, Allied Wireless Communications Corporation (“Allied Wireless”), Douglas Minster, Vice President, Government and Regulatory Affairs, Atlantic Tele-Network, Inc. (“ATNI”), and the undersigned (collectively, the “Parties”) on behalf of Allied Wireless, Georgia RSA #8 Partnership¹ and ATNI met with Carol Matthey, Trent Harkrader, Amy Bender, Ted Burmeister and Kevin Silk of the Wireline Competition Bureau to discuss T-Mobile’s pending Petition for Reconsideration of the *USF-ICC Transformation Order*² in the above-captioned proceedings.

The Parties explained that Section 54.307(e)(1) of the FCC’s rules, 47 C.F.R. § 54.307(e)(1), is fully consistent with the text of the *USF-ICC Transformation Order* and that the “baseline support amount” as that term is used in the *USF-ICC Transformation Order* is “the amount of support disbursed to a competitive eligible telecommunication carrier for 2011, without regard to prior period adjustments related to years other than 2011,” not the amount of support a carrier *might have received* had it been designated throughout 2011. The Parties stated that through its Petition for Reconsideration, T-Mobile is using a strained interpretation of a single sentence in the order to override language that is clear and consistent in both the order and in the adopted FCC rule.

¹ Allied Wireless is Managing Partner of Georgia RSA #8 Partnership.

² See *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (rel. Nov. 18, 2011) (“*USF-ICC Transformation Order*”).

The Parties rebutted T-Mobile's claim that the Commission's stated desire to "avoid shocks to service providers" while reducing legacy high-cost support to competitive ETCs" is applicable to T-Mobile, particularly as it affects its 2011 ETC designation orders. In Georgia, for example, T-Mobile's ETC designation order was granted by the Georgia PSC more than four months after the *USF-ICC Transformation Order* was adopted. In the *USF-ICC Transformation Order*, the FCC intended to avoid shocks to service providers who had made investments in reliance on program support, not applicants for ETC status who had yet to be designated or new ETC designees who had not yet received high-cost support.

Similarly, T-Mobile's ETC designation orders in Hawaii, Idaho, Louisiana, and Minnesota were all granted after the Commission's announced its proposal to transition competitive ETC support to the Connect America Fund "by reducing the interim cap on competitive ETCs support adopted in the *Interim Cap Order* in five equal installments, with the initial 20 percent reduction to occur in 2012."³ T-Mobile had more than adequate notice that legacy high-cost CETC support was coming to an end.

The Parties explained that under Section 254 of the Communications Act, as amended, the FCC must ensure that support is sufficient and predictable to ensure that rural consumers have access to the supported services, not that any particular carrier has sufficient support. T-Mobile's assertions that consumers will somehow be denied service are completely unsupported. T-Mobile has provided no evidence that consumers in rural and non-rural Georgia, Hawaii, Idaho, Louisiana, or Minnesota will not have access to the supported services if T-Mobile's Petition for Reconsideration is not granted.

As the Parties demonstrated through the attached maps, T-Mobile's Eligible Telecommunications Carrier ("ETC") service area in three of the five states – Georgia, Hawaii and Idaho – almost completely overlap with areas already served by other competitive ETCs ("CETCs"). Moreover, as illustrated in three additional enclosed maps, the FCC has determined that the areas in Georgia, Hawaii and Idaho in which T-Mobile has been designated as an ETC contain very few areas in which consumers are not already able to access 3G or 4G services from a competing provider.

Put simply, T-Mobile's decade-long delay in becoming an ETC, and its lack of interest in serving rural America to date, is the proximate cause of its problem. If T-Mobile has, in fact, a newfound interest in serving rural America and in seeking additional federal universal service support, T-Mobile ought to focus its efforts on the FCC's upcoming Mobility Fund auction and the support that the Commission is making available to eligible carriers in order to bring 3G and 4G services to those rural areas most in need of advanced mobile service and end its disingenuous efforts to legitimize what amount to an out-of-time "money grab."

³ *Connect America Fund*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 4554 (rel. Feb. 9, 2011).

Finally, T-Mobile has attempted to downplay the financial windfall that T-Mobile would receive if its Petition for Reconsideration is successful. T-Mobile has stated, for example, that “grant of the T-Mobile PFR will increase frozen monthly support in Louisiana by only \$83,000 per month during the initial baseline period (January – June 2012).”⁴ Based on the Parties’ review of publicly-available data from USAC, we estimate that if T-Mobile’s Petition for Reconsideration is granted by the FCC, T-Mobile would actually “grab” well in excess of an additional \$15 million in legacy CETC high-cost support over the next four years.

For all of these reasons, the Parties asked that T-Mobile’s Petition for Reconsideration be denied in its entirety. If you have any questions or require any additional information, please contact the undersigned directly.

Respectfully submitted,



David A. LaFuria
Todd B. Lantor

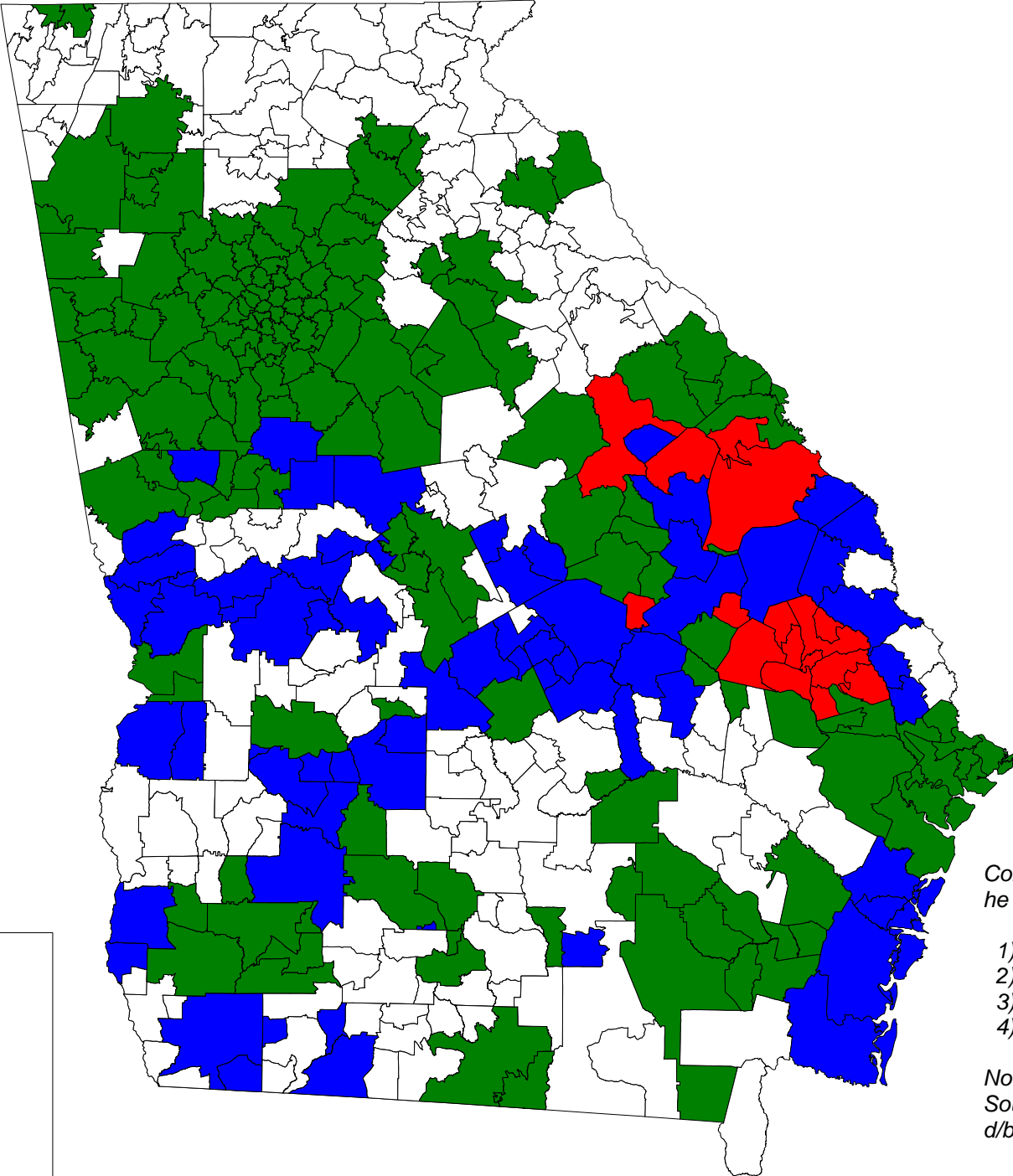
*Counsel to Allied Wireless Communications Corp.,
Georgia RSA #8 Partnership and Atlantic Tele-
Network, Inc.*

Enclosures

cc: Carol Matthey
Trent Harkrader
Amy Bender
Trent Harkrader
Kevin Silk

⁴ See Written *Ex Parte* Presentation from Louisa L. Lancetti, T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90, 05-337; WT Docket No. 10-208; CC Docket No. 96-45 (dated June 1, 2012), at 1.

Combined ETC Designated Area of Other Competitive ETCs in Georgia (Excluding T-Mobile)



Wire Centers with At Least 1 or More ETCs (Excluding T-Mobile)

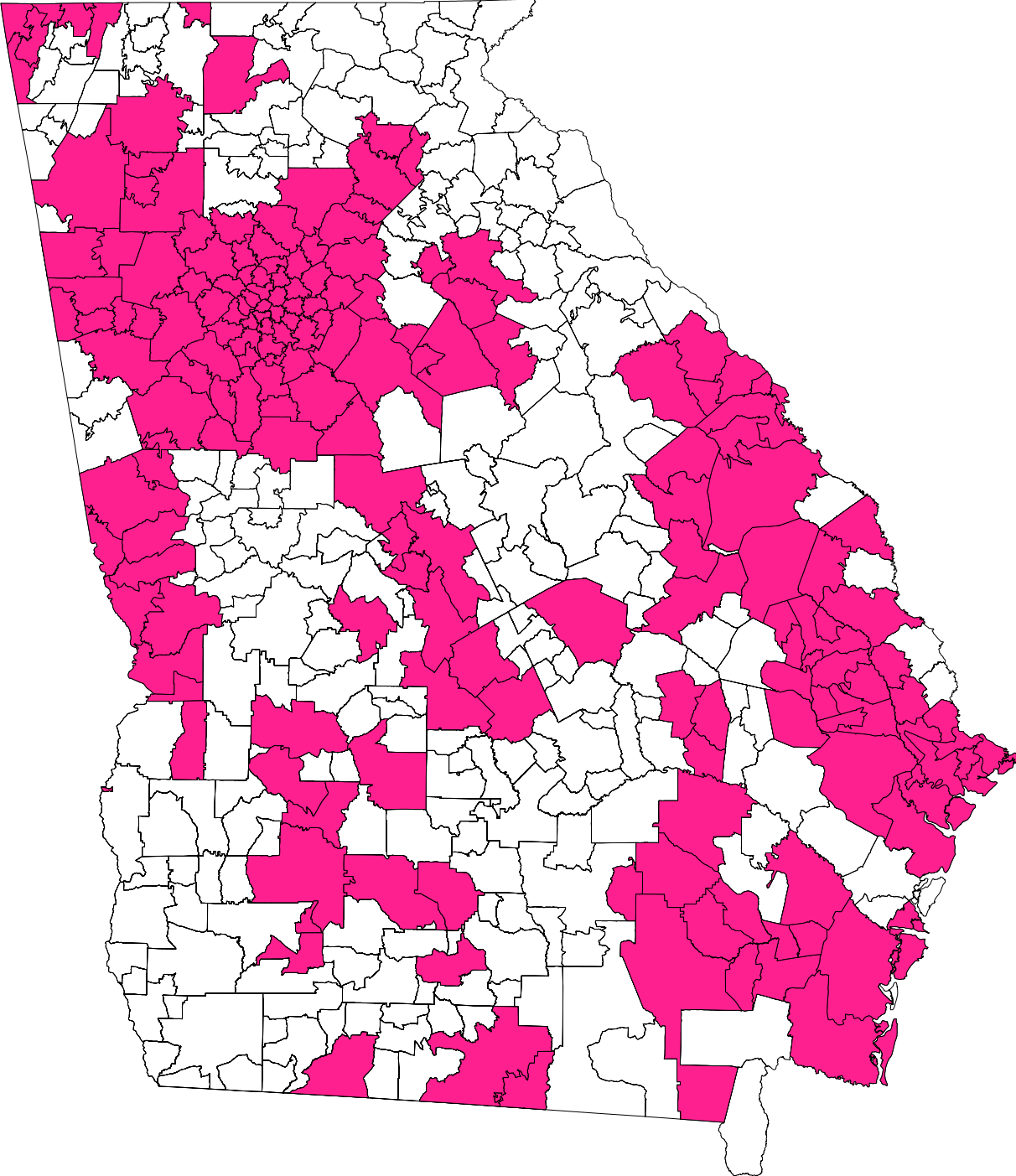
- Wire Centers with One (1) Other ETC
- Wire Centers with Two (2) Other ETCs
- Wire Centers with Three (3) Other ETCs

Combined ETC Designated Area Includes only the following Competitive ETCs in Georgia:

- 1) Allied Wireless Communications Corp.
- 2) Georgia RSA #8 Partnership
- 3) Sprint Spectrum, LP
- 4) Verizon Wireless (formerly Alltel Wireless)

Note: Not included is the ETC Designated Area of Southern Communications Services, Inc. d/b/a SouthernLINC Wireless

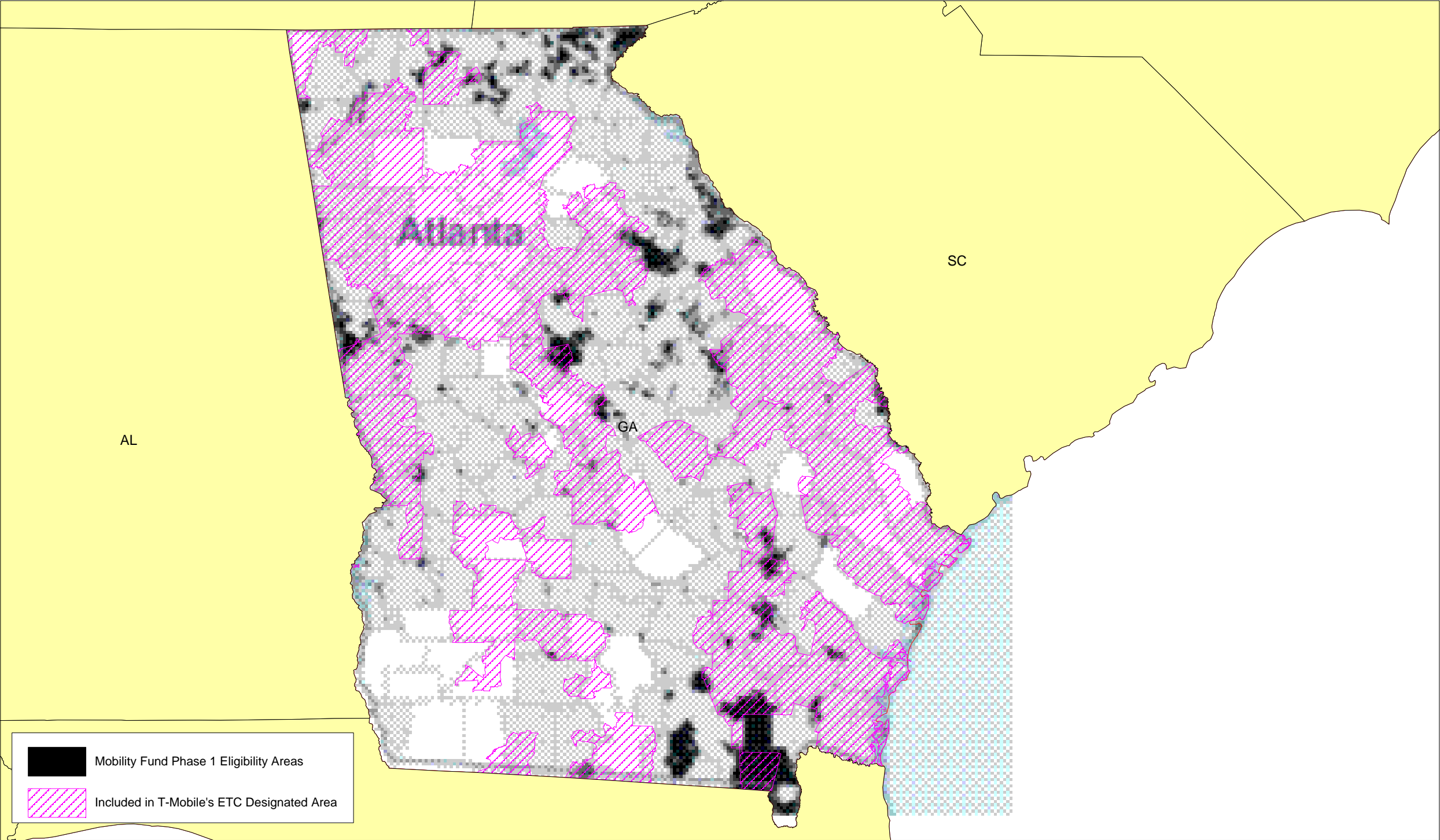
T-Mobile's ETC Designated Area in Georgia



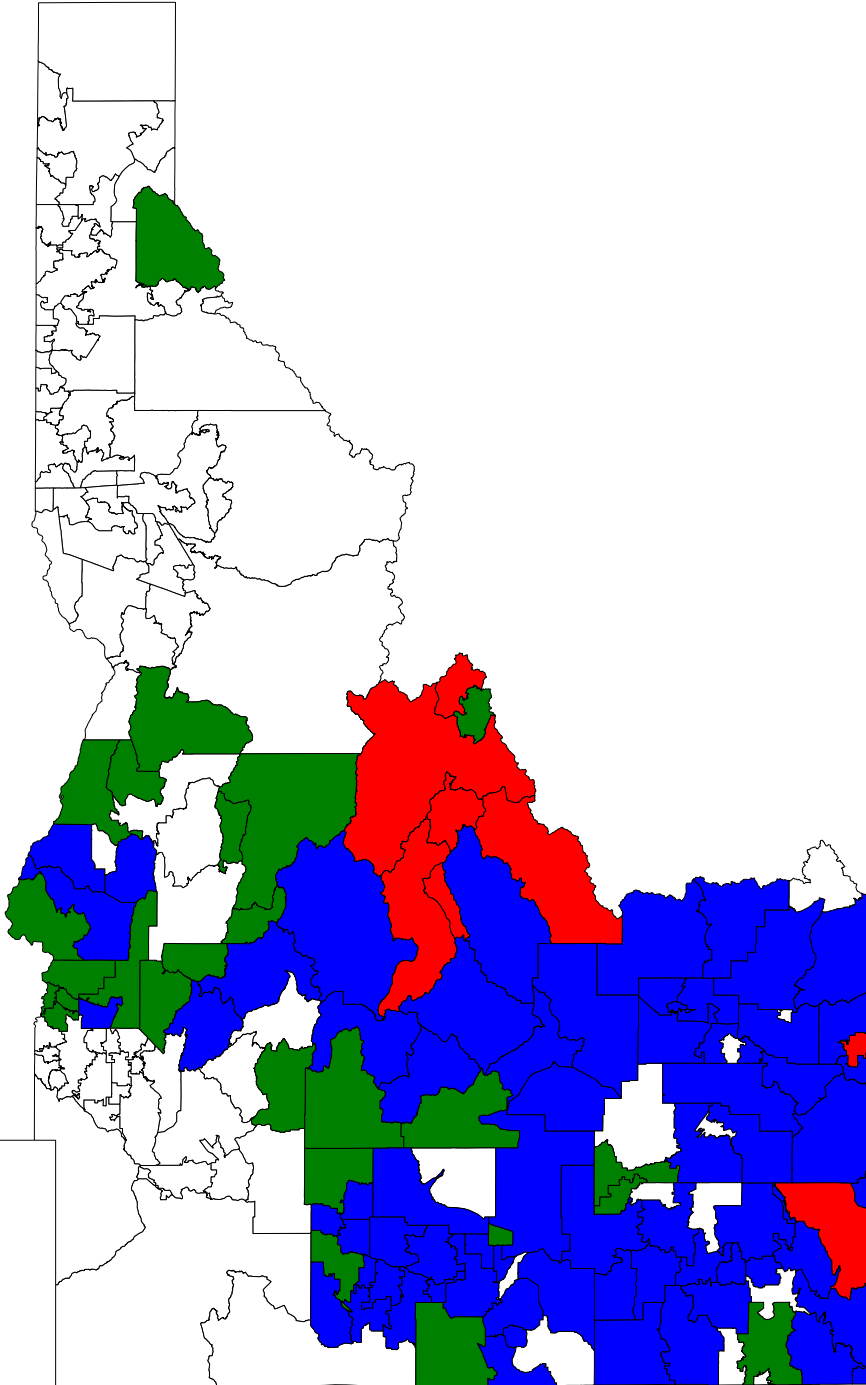
Not Included In T-Mobile's ETC Designated Area

Included In T-Mobile's ETC Designated Area

FCC Mobility Fund Phase 1 Eligible Area Map Overlaid on T-Mobile ETC Designated Area in Georgia



Combined ETC Designated Area of Other Competitive ETCs in Idaho (Excluding T-Mobile)



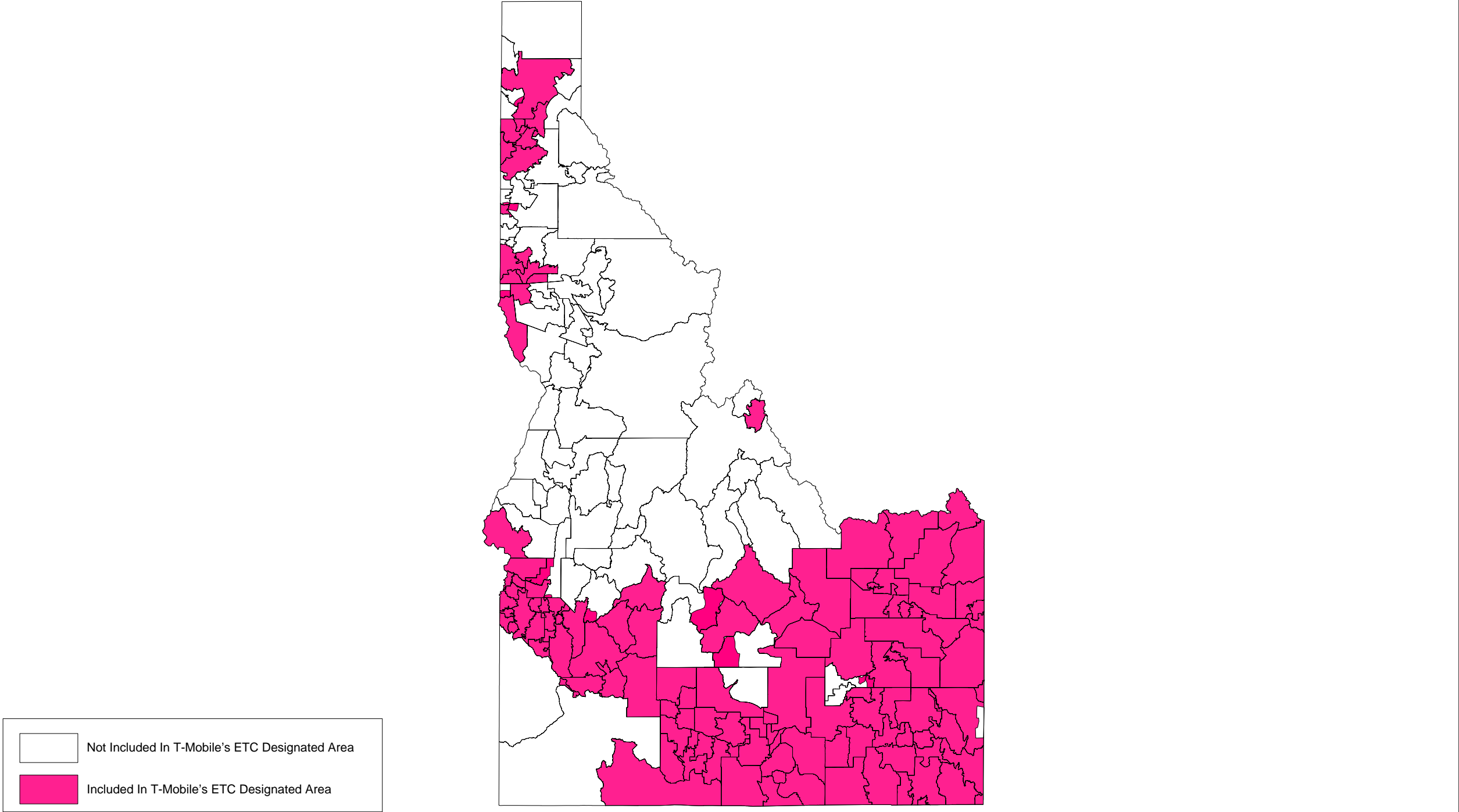
**Wire Centers with At Least 1 or More Competitive ETCs
(Excluding T-Mobile)**

- Wire Centers with One (1) Other ETC
- Wire Centers with Two (2) Other ETCs
- Wire Centers with Three (3) Other ETCs

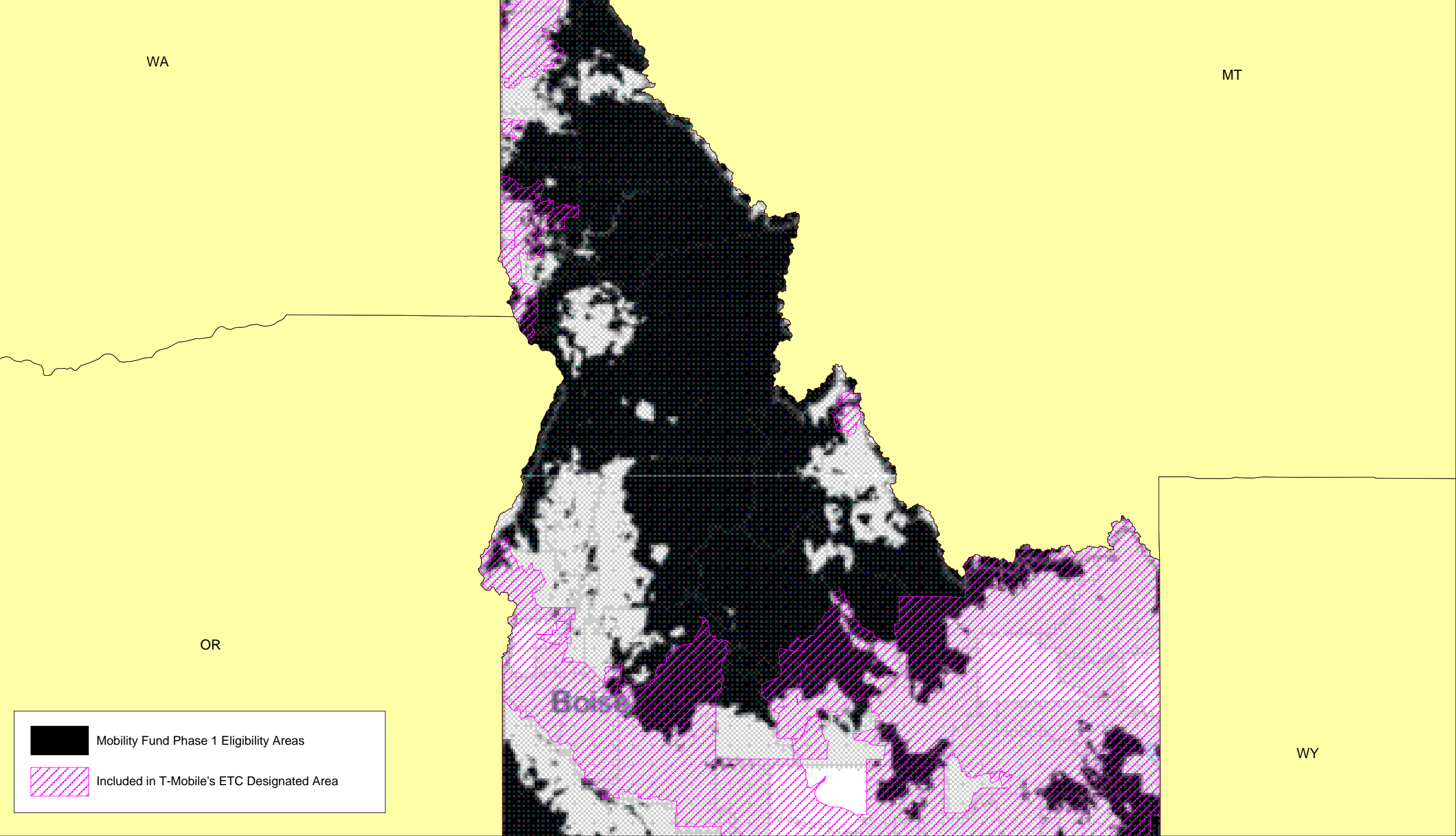
*Combined ETC Designated Area Includes the following
Competitive ETCs in Idaho:*

- 1) *Allied Wireless Communications Corp.*
- 2) *AT&T Mobility (formerly Edge Wireless)*
- 3) *CTC Telecom, Inc.*
- 4) *Gold Star Communications LLC*
- 5) *Syringa Wireless, LLC*

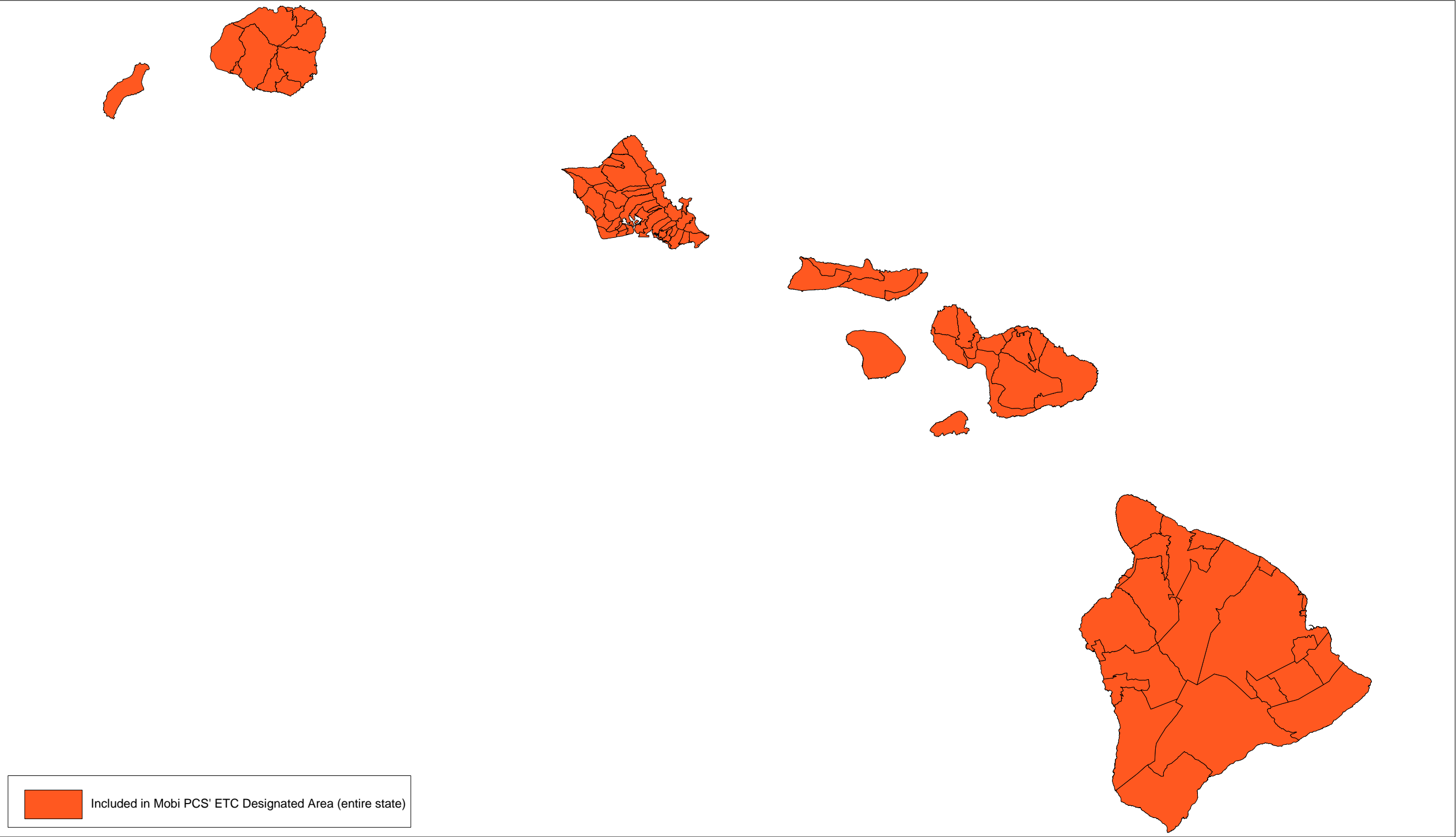
T-Mobile's ETC Designated Area in Idaho



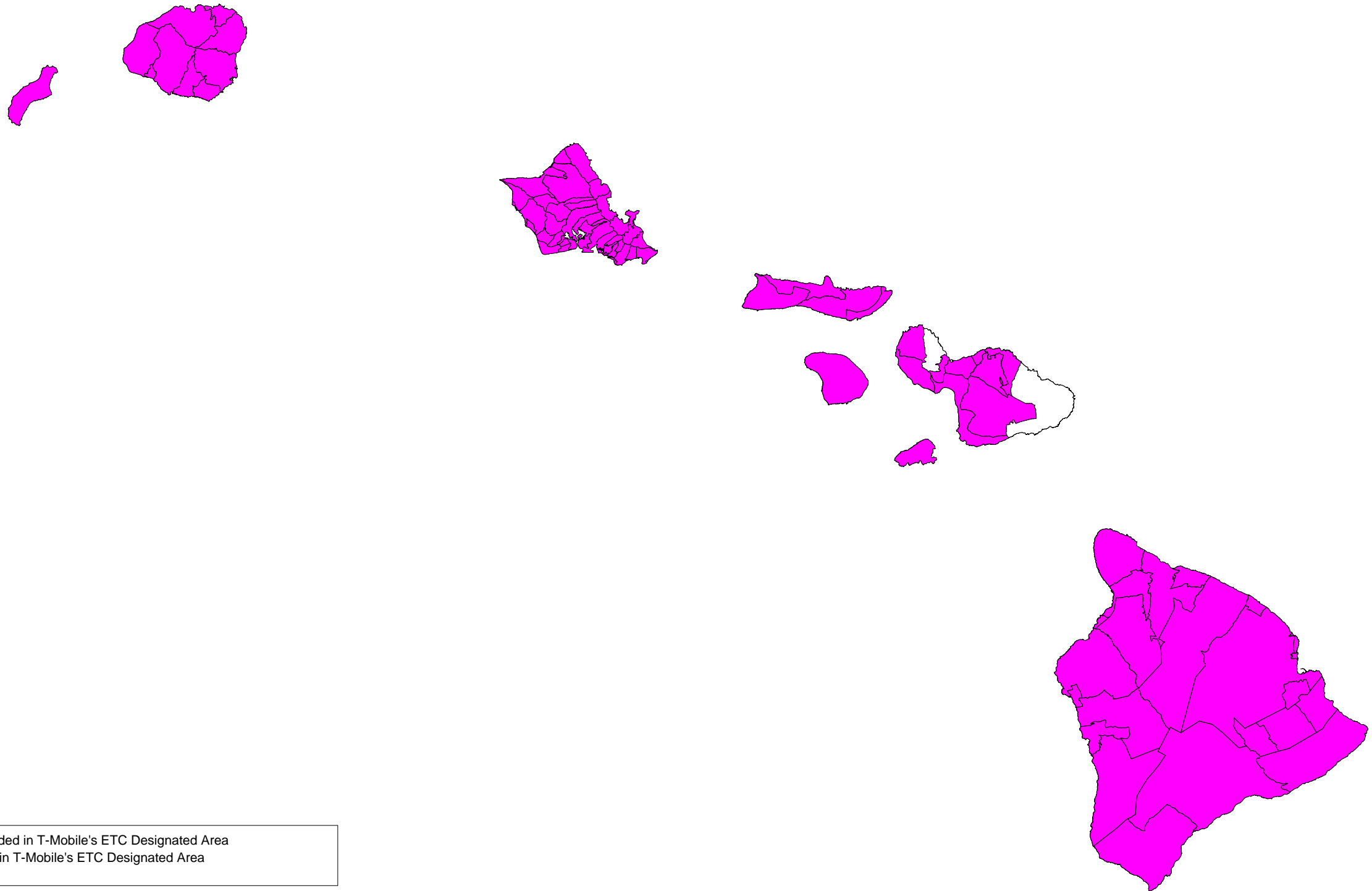
FCC Mobility Fund Phase 1 Eligible Area Map Overlaid on T-Mobile's ETC Designated Area in Idaho



Mobi PCS' ETC Designated Area In Hawaii



T-Mobile's ETC Designated Area In Hawaii



☐ Not Included in T-Mobile's ETC Designated Area
☒ Included in T-Mobile's ETC Designated Area

